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May 9, 2000

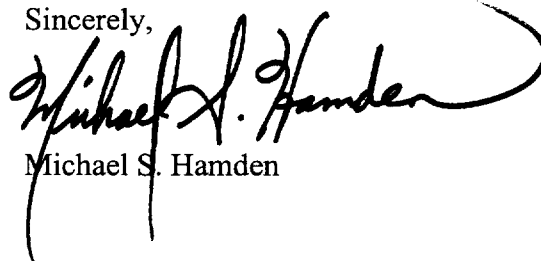
Honorable Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Room 8-B201
Washington, DC 20554

RE: CC Docket No. 96-128 (Voluntary Remand of Inmate Telephone Services Issues)

Dear Ms. Salas:

We are submitting for the record in this proceeding the enclosed letter that was mailed separately today for delivery to Chairman William Kennard. Please stamp and return the enclosed copy in the enclosed self-addressed stamped envelope provided. Thank you for your attention to this matter and your cooperation.

Sincerely,



Michael S. Hamden

MSH:br
Enclosures

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Chairman William Kennard
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, DC 20554

RE: CC Docket No. 96-128 (Voluntary Remand of Inmate Telephone Services Issues)

Dear Chairman Kennard:

Inmate telephone service companies are currently before the Commission seeking fair compensation for telephone service to jails, pursuant to Section 276(b) of the Communications Act. We believe that this "fair compensation" proceeding provides a unique opportunity for the FCC to take crucial action to reform inmate telephone service rates.

Rates for long-distance inmate telephone services in this country are unjustifiable and disgraceful. When the "free market" allows service providers to extract extortionate rates from inmates and their families, there is a clear and immediate need for regulation. (What parent, receiving a call from a child that originates in a jail or prison, would give a moment's thought to the cost of the call? Or, would decline the call, even knowing he would be "gouged." Most parents would promise to pay any price under those circumstances. But why would we want *any* parent to be faced with such a choice?) That deplorable state of affairs cannot be allowed to continue.

As a means of fostering the maintenance and strengthening of ties between inmates and their families and their communities, the importance of extending inmates telephone privileges has been recognized by the American Correctional Association (October 1996 Resolution on Excessive Phone Tarriffs), by the Federal Bureau of Prisons (PS5264.06 Telephone Regulations for Inmates), by the National Sheriffs' Association (Resolution of 14 June 1995), and by other leaders in the Corrections profession.

While there are a number ways in which the development of these relationships can be fostered (as, for example, through visitation and written correspondence), telecommunications services are increasingly integral to human interaction in today's society. Separated from family and friends by the fact of their incarceration, inmates may be especially reliant on telephone privileges to maintain contact with loved ones. This is particularly true for a significant percentage of the incarcerated population who have limited literacy skills.

Telephone privileges are highly valued by inmates. The availability of telephones provides a powerful incentive for inmates to comply with rules and apply themselves in rehabilitative efforts. The suspension of such privileges for disciplinary reasons can be a particularly stinging punishment, but one that is legally permissible.

For all these reasons, telephone privileges can be a valuable tool in the overall correctional process.

I understand from the inmate telephone service providers that local inmate service rate ceilings in some states are artificially low — capping rates as low as 85 cents per call in Tennessee, and \$1.15 per call in North Carolina. If, as the service providers argue, they are prevented from recovering their costs and a reasonable profit, these rate ceilings threaten the availability of telephone service in county jails.

On the other hand, long distance rates for inmate service are outrageously high and steadily increasing. For example, AT&T has raised its interstate long distance inmate service rates 57% over the last three years. See Attachment. AT&T's current rate for a 15-minute interstate long distance inmate service call is \$14.30, about 15 times the \$.85 rate for a 15-minute local call in Tennessee. It is my understanding that the only difference in cost between these two types of calls is the cost of transmission — probably about one dollar — but the difference in price is **thirteen dollars!** If that is not conclusive evidence of abusive practices, the fact that these companies can offer "commissions" as high as 60% puts the matter beyond credible contention. Such outlandish commissions have no connection to any legitimate "cost" of providing telephone services in a correctional setting. And, paradoxically, the inability of service providers to collect such exorbitant charges appears to be advanced as a justification for ever-escalating rates.

The inmate telephone service providers serving jails argue that, in many states, they are unable to recover all the costs of local calls. Providers of jail telephone service (which is predominantly local service in states like North Carolina and Tennessee) have presented evidence to show they are forced to charge higher rates on their long distance calls in order to make up their losses on local calls. The result is a constant upward spiral of costs and commissions that are being borne by the most disadvantaged, poverty-stricken segment of our population.

Two years ago, when the FCC adopted price-disclosure rules for operator service, the FCC ruled that "We are unaware of any public policy reason why users of interstate operator services should be required to subsidize users of intrastate operator services." *Billed Party Preference for InterLATA 0+ Calls*, CC Docket No. 92-77, Second Report and Order and Order on Reconsideration, FCC 98-9, released January 29, 1998. Yet, it appears that inmate service providers are being forced

to subsidize intrastate operator services through excessive interstate charges, at inmate families' expense, because no single agency is looking at the whole picture and reconciling the appalling practices associated with the provision of inmate telephone services.

Today, the FCC has a mandate from Congress to look at the whole picture. Section 276 of the Communications Act directs the Commission to ensure fair rates for "each and every" inmate service call — both local and long distance. The FCC, in its Third Report and Order (*Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Third Report and Order, FCC 99-7 (released February 4, 1999, 72-88), established a "bottoms-up" cost mechanism to make sure payphone providers are "fairly compensated" for dial-around calls from payphones.

In this proceeding, the FCC should face the inmate service issue squarely, and resolve it comprehensively. The FCC should require providers of inmate telephone service to justify the price of their calls by filing tariffs supported by a "bottoms-up" cost mechanism that accounts for costs and demonstrates that the proposed return is reasonable. This cost justification process would ensure that inmate calls will be fairly priced for both local and long-distance calls, providing a fair return for inmate service providers, at a reasonable cost to inmates and their families.

Fair pricing on telephone services will strengthen public trust in the FCC. It will also help to re-establish the public trust in telephone companies. While cost justification for rates will result in significantly lower per-call profits, unscrupulous profiteering must be restrained by law, if not by ethical business judgement. Any diminution in profitability will be at least partially offset by a possible increase in the number or duration of calls (and revenue), and by improved collections. In such an environment, the competitive forces of a free market will focus attention on the need to reduce costs, lower rates, and thereby increase traffic and profitability.

Correctional officials will also have to find ways to offset the loss of revenue, but public expenses *should* be borne by the public, generally, and *not alone* by the families of those the public imprisons. And, as already noted, telephones have purposes other than the generation of income in a correctional setting; they can be valuable tools in the overall correctional process.

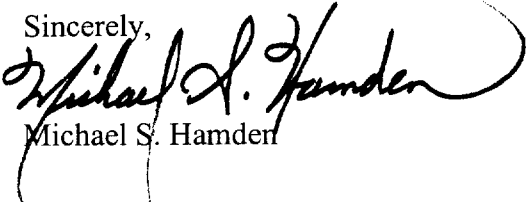
Of course, inmates and their families will benefit most from regulations that require fair pricing on inmate telephone services. That is only just, since they have borne the pernicious costs of abuse. Fair pricing will make phones more accessible to inmates and communications more affordable to their families. Reasonable rates will help to strengthen family ties and connections with communities, aiding in the eventual re-integration of the offender into free society.

Chairman William Kennard
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In this proceeding the FCC truly has an opportunity to take a meaningful step that will have long-lasting benefits for all members of our society. I urge you to exercise your authority to implement a comprehensive approach to the regulation of pricing practices for inmate telephone calls.

Thank you for your attention to this matter, and for your service to our country.

Sincerely,



Michael S. Hamden

cc: Commissioner Harold Furchtgott-Roth
Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Gloria Tristani

CERTIFICATE OF SERVICE

I hereby certify that on this the 9th day of May, 2000, a true and correct copy of the foregoing **CC Docket No. 96-128 Voluntary Remand of Inmate Telephone Services Issues**, was mailed, first class, postage prepaid, or hand delivered to:

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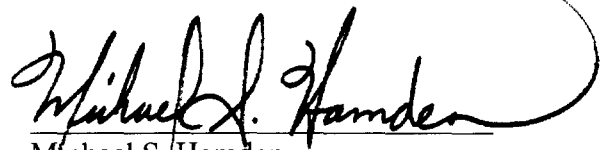
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